Court No. 7

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Criminal Transfer Application No. 6 of 2005

1. Ashok Kumar Gulati
   S/o late Shri Bhagat Ram Gulati
   R/o B 16/110, Patel Nagar, Saharanpur (U.P.),
   Proprietor M/s Simplex Pharma, Opposite
   Mangal Nagar, Link Road, Saharanpur.

2. M/s Simplex Pharma, Opposite Mangal Nagar,
   Link Road, Saharanpur through its Proprietor
   Shri Ashok Kumar Gulati.

..... Applicants.

Versus

State of Uttaranchal through Inspector Drugs,
Uttaranchal ..... Opp. Party.

Sri Sandeep Tandon, learned counsel for the applicants.
Learned A.G.A. for the State/Opp. party.

Date: November 9, 2006.

Hon'ble Dharam Veer, J.

This application has been filed with the prayer to transfer the Criminal Case No. 1222 of 2004, State of Uttaranchal versus Ashok Kumar Gulati & other, under Section 18(a) (i), 18 (a) (vi) punishable under Section 27 of Drugs & Cosmetics Act, 1940 pending in the court of Chief Judicial Magistrate, Pithoragarh to any other district/court having same jurisdiction on the ground that the applicant is a patient of bronchial asthma from the last 15 years and he is under treatment at Saharanpur and he is facing great difficulty in travelling the hill routes.

2. The brief facts of the case are that Drugs Inspector, Uttaranchal, Kumaon Region filed a complaint case on 8.12.2004 against the applicants under Section

18(a)(i), 18(a)(vi) punishable under Section 27 of Drugs & Cosmetics Act, 1940. The trial court took cognizance against the applicants and issued summons to the applicants.

3. I have gone through the prescriptions filed by the applicant in support of his contention that he is patient of bronchial asthma with Pedal Oedema. He is advised to restrain from travelling long distances on high altitude. A certificate issued by Dr. Rakesh Kumar of Padamshri Dr.Bagley Memorial Clinic, Saharanpur has also been filed in this respect. Certificate issued by Chief Medical Superintendent of S.B.D. Distt. Hospital, Saharanpur, dated 28.04.2005 also shows that the applicant is patient of bronchial asthma with Oedema and remained under treatment of Dr. Kuldeep Singh w.e.f. 19.02.2005 to 28.4.2005.

4. The learned counsel for the applicant made statement at bar that the applicant Ashok Kumar Gulati, who is facing the trial, is on bail.

5. The learned counsel for the applicant also submitted that the aforesaid criminal case may also be transferred to any other district of plain.

6. Keeping in view the facts and circumstances of the case and in the interest of justice the application is allowed. Let the Criminal Case No.1222 of 2004, State of Uttaranchal versus Ashok Kumar Gulati & others, under Section 18(a)(i), 18(a)(vi) punishable under sec. 27 of Drugs & Cosmetics Act, 1940 be transferred from the court of Chief Judicial Magistrate, Pithoragarh to the court of Chief Judicial Magistrate, Udham Singh Nagar.

(Dharam Veer, J.)
09.11.2006

P. Singh